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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,534	03/03/2005	Andre Mathys	MATHYS2	5321
1444 7590 02/02/2007 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER LUPINO, GINA M	
			ART UNIT	PAPER NUMBER
			3652	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/526,534

Applicant(s)

MATHYS ET AL.

Examiner

Gina M. Lupino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claims 1 recite the limitation "it" but it is unclear whether it refers to "the gripping means" or the "tongs".

1.2. Claims 9, 19, and 20 all recite the limitation "the latter", but it is unclear whether "the latter" refers to the "at least one rod" or "container", as recited in claim 9.

1.3. Further clarification is necessary.

II. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE GREEF (U.S. Patent Publication No. 2002/0041801).

1.1. With respect to claim 1, DE GREEF teaches a storage and retrieval unit capable of storing and removing store containers belonging to a rack, with an endless drive element which is led around two wheels arranged at a distance from each other and has an upper

run and a lower run and on which at least one gripping means for gripping a container or a pallet is arranged, characterized in that the gripping means is formed in the manner of tongs and is guided so that that it carries out a lateral movement to grip the container.

1.2. With respect to claims 2-20, DE GREEF teaches the unit, as discussed above, and

1.2(a) With respect to claim 2, the gripping means has two gripping arms 2.

1.2(b) With respect to claim 3, the gripping arms are mounted such that they can be pivoted. See Figure 1 and paragraph 41, lines 7-8.

1.2(c) With respect to claim 4, the gripping arms are mounted on a load-bearing rod. See Figure 4.

1.2(d) With respect to claim 5, the movement is capable of being transmitted from one gripping arm to the other gripping arm by means of a tie rod. See Figures 6A,B.

1.2(e) With respect to claim 6, the gripping means is actuated by a guide rail. See paragraph 45, lines 1-5.

1.2(f) With respect to claim 7, two gripping means 2 are provided, which are each actuated by a guide rail. See paragraph 45, lines 1-5.

1.2(g) With respect to claim 8, the gripping arms 2 in each case have a gripping finger at a free end.

1.2(h) With respect to claims 9, 19, and 20, the gripping means 2 have at least one rod positioned such that it is capable of pushing the container as the container is deposited.

1.2(i) With respect to claim 10, the rod is a tie rod, which transmits a movement. See paragraph 45, lines 1-5.

1.2(j) With respect to claims 11 and 12, the movement is transmitted from one gripping arm to the other gripping arm by means of a tie rod. See paragraph 45, lines 1-5.

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1.2(k) With respect to claims 13 and 14, the gripping means is actuated by a guide rail.


See paragraph 45, lines 1-5.

1.2(l) With respect to claims 15 and 16, two gripping means are provided, which are each actuated by a guide rail. See paragraph 45, lines 1-5.

1.2(m) With respect to claims 17 and 18, the gripping arms 2 in each case have a gripping finger at a free end.

III. Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 9:00am - 5:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER